



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>

September 2, 2003

Ref: 8ENF-T

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Anita Bethers  
Billy Bethers Water Supply  
POB 434  
Heber, UT 84032

Re: Administrative Order  
Docket No. SDWA-08-2003-0013  
PWS ID #4900136

Dear Ms. Bethers:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that you are a public water supplier as defined by the SDWA and that you have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(a)(2), 141.21(a)(2), 141.21(b), 141.23(d), 141.26(a)(3), 141.24(f), 141.24(h), 141.86, 141.152-155, 141.21(a), 141.21(g)(1), 141.21(g)(2), 141.31(b) and 141.201 for: bacteriological maximum contaminant level and monitoring violations; failure to monitor for nitrates, pesticides, volatile organic chemicals, radionuclides and lead and copper; failure to failure to prepare and deliver a consumer confidence report; failure to submit a bacteriological sample siting plan; failure to report SDWA violations to the State; and failure to provide public notice of the violations.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on



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compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Kathelene Brainich at the address on the letterhead, include the mailcode 8ENF-T, or you may call Ms. Brainich at (800) 227-8917, extension 6481, or (303) 312-6481. If you wish to have an informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney or have legal questions, please call Brenda Morris at the above 800 number, extension 6891, or at (303) 312-6891.

We urge your prompt attention to this matter.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures  
Order  
SBREFA

cc: Kenneth Bousfield, UT DEQ



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF	)	
	)	
Anita Bethers	)	
Billy Bethers Water Supply	)	
Heber, Utah	)	
	)	
Respondent	)	
	)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g)	)	
of the Safe Drinking Water Act,	)	Docket No. SDWA-08-2003-0013
42 U.S.C. §300g-3(g)	)	
	)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. §300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Anita Bethers (Respondent) is an individual and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Billy Bethers Water Supply Water System (the "System"), located in Wasatch County, Utah for the provision to the public of piped water for human consumption.



3. The Billy Bethers Water System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. §300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a February 2002 sanitary survey by the Utah Department of Environmental Quality, Respondent operates a system that is supplied by a groundwater source consisting of one spring with no treatment. The system serves approximately 40 persons and has 21 service connections.
6. The Utah Department of Environmental Quality has primary enforcement authority for the Safe Drinking Water Act in the State of Utah. On May 29, 2003, EPA issued a Notice of Violation to the State requesting that it enforce the



violations at the Billy Bethers Water Supply Water System within 30 days. The State chose not to commence enforcement for the violations.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21(a) requires community public water systems serving a population of less than 1,001 to monitor their water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondent for the public water system during February 2002 and May and June 1999 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

II.

1. 40 C.F.R. §141.21(a) requires community public water systems serving a population of less than 1,001 to monitor their water at least once per month to determine



compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondent failed to monitor the water for contamination by total coliform bacteria during the months of January, February, March, April, May and June 2003; March, April, May, June, July, September, October, November and December 2002; July, August, September, October and December 2001; June, July, and October 2000; September and November 1999; and September 1998, in violation of 40 C.F.R. § 141.21(a).

### III.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a set of repeat samples after a total coliform positive routine sample in January and February 2002 and February 2001, in violation of 40 C.F.R. § 141.21(b).

### IV.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.



2. Respondent last monitored for nitrate in October 1999 but failed to monitor in 2000, 2001 and 2002, in violation of 40 C.F.R. § 141.23(d).

V.

1. 40 C.F.R. § 141.26(a)(3) requires community water systems to monitor the water once every 4 years to determine compliance with the MCL for radioactivity, as stated in 40 C.F.R. § 141.15.
2. Respondent last monitored for radioactivity in June 1996 and has continuously failed to monitor the water since 2000, in violation of 40 C.F.R. § 141.26(a)(3).

VI.

1. 40 C.F.R. § 141.24(f) requires that community and non-transient, non-community water systems monitor the water annually to determine compliance with the MCLs for volatile organic contaminants as stated in 40 C.F.R. § 141.61.
2. Respondent last monitored for volatile organic contaminants in December 1996 and has failed to monitor the water in 1998, 1999, 2000, 2001 and 2002, in violation of 40 C.F.R. § 141.24(f).

VII.

1. 40 C.F.R. § 141.24(h) requires all community and non-transient, non-community water systems to conduct



initial sampling of the water consisting of four consecutive, quarterly samples during each three year compliance period to determine compliance with the MCL for pesticide/herbicide organic contaminants as stated in 40 C.F.R. § 141.61(c).

2. Respondent failed to conduct initial sampling of the water for pesticide/herbicide organic contaminants consisting of four consecutive, quarterly samples during the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> compliance periods of 1996-1998 and 1999-2001, in violation of 40 C.F.R. § 141.24(h).

#### VIII.

1. 40 C.F.R. § 141.86 requires community and non-transient, non-community water systems to monitor tap water annually for three years for lead and copper after the initial two six-month compliance periods.
2. Respondent monitored for lead and copper in 2001, but failed to monitor annually for lead and copper in 1999 and 2000, in violation of 40 C.F.R. § 141.86.

#### IX.

1. 40 C.F.R. §§ 141.152-155 requires community water systems to prepare and deliver an annual Consumer Confidence Report (CCR) to its customers by July 1<sup>st</sup> each year.



2. Respondent failed to prepare and deliver a Consumer Confidence Report in 2002 and 2003, in violation of 40 C.F.R. §§ 141.152-155.

X.

1. 40 C.F.R. § 141.21(a) requires public water systems to collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sample siting plan.
2. Respondent has failed to submit a total coliform sample siting plan.

XI.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulations (NPDWR) violations, including violations of the maximum contaminant level (MCL), maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I through X, with the exception of the September and November 1999 and June, July & October 2000 failure to monitor bacteriological quality violations; and the 2000 failure to monitor nitrate, radionuclides and lead and



copper violations, in violation of 40 C.F.R. §  
141.201.

XII.

1. 40 C.F.R. § 141.21(g) (1) requires a public water system that has exceeded the MCL for total coliform in 40 C.F.R. § 141.63 to report the violation to the State no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to the State the total coliform MCL violations detailed in Section I, in violation of 40 C.F.R. § 141.21(g) (1).

XIII.

1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to the State within ten days after the system discovers the violation.
2. Respondent failed to report to the State the noncompliance detailed in Sections II and III, in violation of 40 C.F.R. § 141.21(g) (2).

XIV.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary



Drinking Water Regulation (40 C.F.R. Part 141) to the State within 48 hours.

2. Respondent failed to report to the State the noncompliance detailed in Sections IV through XI, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of the effective date of this Order, Respondent shall install and operate continuous disinfection to bring the system into consistent compliance with the MCL for coliform bacteria at 40 C.F.R. § 141.63.
2. Within 30 days of the effective date of this Order, Respondent shall monitor residual disinfectant concentration of the water entering the distribution system daily and maintain a residual of not less than 0.2 mg/L. Respondent shall report the results to the State and EPA within 10 days after the end of each month.
3. Within 90 days of the date of this Order, Respondent shall submit to EPA detailed plans for bringing Respondent's public water system into consistent compliance with the MCL for coliform bacteria at 40 C.F.R. §



141.63. The plans shall include proposed system modifications, estimated costs of modifications, and a schedule for construction of the project and compliance with the MCL for coliform bacteria. The proposed schedule shall include specific milestone dates, a final compliance date that shall be within 9 months from the effective date of this Order and shall be submitted to the State and EPA for approval. The plans must be approved by EPA and the State before construction/modifications can commence and shall include, at a minimum, correction of the deficiencies outlined in the February 2003 sanitary survey conducted by the Utah Department of Environmental Quality and the Wasatch County Health Department, including the ability to supply 20 psi in all locations of the water system at peak instantaneous flow conditions and adequate storage of at least 14,600 gallons (without fire protection).

4. The schedule for construction and completion of modifications will be incorporated into this Order upon written approval by the State and EPA.
5. Within 180 days of the date of this Order, Respondent shall submit to the State and EPA quarterly reports on the progress made toward bringing Respondent's system



into consistent compliance with the coliform bacteria MCL at 40 C.F.R. § 141.63.

6. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to the State and EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
7. Upon the effective date of this Order, Respondent shall comply with all total coliform repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere



within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to the State and EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

8. Within 30 days of the date of this Order, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
9. Within 30 days of the date of this Order, Respondent shall monitor the water for radioactivity, as required by 40 C.F.R. § 141.26(a)(3). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
10. Within 30 days of the date of this Order, Respondent shall monitor the water as required by 40 C.F.R. § 141.24(f) to determine compliance with the MCL for volatile organic contaminants appearing at 40 C.F.R. §



141.61(a). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

11. No later than September 30, 2003, and for three more quarters after (October-December 2003, January-March 2004, and April-June 2004) Respondent shall comply with the quarterly monitoring requirements as required by 40 C.F.R. § 141.24(h) to determine compliance with the MCL for pesticide/herbicide organic contaminants appearing at 40 C.F.R. § 141.61(c). Respondent shall report analytical results to EPA within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).
12. During the period June 1 - September 30, 2004, Respondent shall monitor the water for lead and copper as required by 40 C.F.R. § 141.86. Respondent shall report results to the State and EPA by October 10, 2004, as required by 40 C.F.R. § 141.90(a).
13. Within 30 days from the date of this Order, Respondent shall prepare a Consumer Confidence Report summarizing drinking water information, including violations, from January through December 2001 and January through December 2002 and deliver the report to the System's



customers, in accordance with 40 C.F.R. §§ 141.152-155. The report should clearly identify information for each of the two years. Respondent shall provide EPA and the State a copy of the CCRs along with a certification of the date and method of distribution of the CCR to the System's customers no later than 10 days after distribution.

14. Within 30 days of the effective date of this Order, Respondent shall provide the State and EPA with a written sample siting plan for total coliform monitoring, as required by 40 C.F.R. § 141.21(a).
15. Within 30 days of the effective date of this Order, Respondent shall provide a notice to the public of the violations specified under the Findings of Violation in this Order, with the exception of the September and November 1999 and June, July & October 2000 failure to monitor bacteriological quality violations; and the 2000 failure to monitor nitrate, radionuclides and lead and copper violations, to return to compliance with 40 C.F.R. §§ 141.201, 141.203, and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; AND (2) any other method reasonably calculated



to reach other persons served by the system, if they would not normally be reached by the notice, such as publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or delivery to community organizations. The System must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days. Respondent may use the Consumer Confidence Report (CCR) to provide public notice as long as (1) The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation; (2) The public notice contained in the CCR follows the content requirements under 40 C.F.R. § 141.205; AND (3) The CCR is distributed following the delivery requirements under 40 C.F.R. § 141.204(c). Upon the effective date of this Order, Respondent shall comply with the public notice requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation.



Respondent shall submit a copy of the public notice to the State and EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

16. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to the State and EPA no later than the end of the next business day after Respondent learns of the violation.
17. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to the State and EPA within ten days after the system discovers the violation.
18. Except where a different reporting period is specified in paragraphs 16 and 17 above, upon the effective date of this Order Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to the State and EPA within 48 hours.
19. Reporting requirements specified in this Order shall be provided by certified mail to both:

Kathelene Brainich (8ENF-T) AND  
U.S. EPA Region VIII  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Kenneth Bousfield  
UT Dept. Environmental Quality  
POB 144830 (Drinking Water)  
Salt Lake City, UT 84114-4830



GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g) (3) (A), 42 U.S.C. §300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. §300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. §300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. §300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. §300g-3(b).



4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 2ND day of September, 2003.

**David J. Janik**

Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

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**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE  
REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 2, 2003.

